

THE AMERICAN LEGION
NATIONAL HEADQUARTERS

OFFICE OF THE
NATIONAL JUDGE ADVOCATE
INDIANAPOLIS, IND. 46206

October 3, 2000

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Ms. Alva E. Smith
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Ms. Smith:

On September 20, 2000, I wrote to you and confirmed our telephone conversation of September 19, 2000, regarding the letter from the Federal Election Commission (FEC) issued August 18, 2000, but mailed August 23, 2000. It arrived at American Legion National Headquarters while we were away at our National Convention in Milwaukee, Wisconsin.

Incidentally, it was misaddressed to the Editor of the American Auxiliary Magazine but deals with an advertisement in The American Legion Magazine.

The American Legion is a United States corporation. Its charter appears at 36 USC 21701 et seq. The American Legion Auxiliary is an Indiana corporation. The two corporations have separate Boards of Directors and essentially two separate memberships. The only overlap in membership occurs for Auxiliary members who are eligible for The American Legion because of their military service and elect to join The American Legion as well. This has been the situation since 1919, two years before women could vote in federal elections.

The September 19th letter complained about an advertisement. The advertisement in question concerned macular degeneration and a device to enlarge images on a computer screen for those who suffer from this medical condition. In the advertisement the name "George Bush" appeared on the screen. Further down on the same screen is a reference to the former president.

This advertisement ran in, inter alia, Modern Maturity, the Elks Magazine, The Saturday Evening Post, and The American Legion Magazine. This particular ad ceased running before The American Legion received the August 18th letter from the FEC.

The FEC has no jurisdiction on this matter. Indeed, by even challenging the ad, the FEC has interfered with the First Amendment rights of The American Legion. This is true

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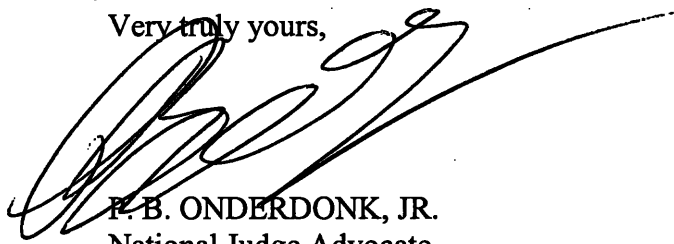
because the advertisement has absolutely nothing to do with any election or anything that could fall under the jurisdiction of the FEC.

George W. Bush is a candidate for president. He insists that his middle initial be used to differentiate him from his father, the former president. Indeed, the words of 2 USC 431 (9) (b) (iii) clearly demonstrate that an advertisement for medical aid for those who are nearly blind is far outside the scope of the FEC's authorization. No candidate or federal election is involved in the advertisement for this commercial product. Since George Bush, the former president, is not a candidate, there can be no violation of any election law.

It is further the understanding of The American Legion that you have received only one complaint from our membership of almost 2.8 million individuals. Clearly, the individual who complained does not understand the plain meaning of English words.

For all of the above reasons, it is crystal clear that there has been no violation of any federal election law and there is no jurisdiction in the FEC. Accordingly, the matter must be dismissed forthwith.

Very truly yours,



P. B. ONDERDONK, JR.
National Judge Advocate

C: Ray G. Smith, National Commander, The American Legion
Robert W. Spanogle, National Adjutant, The American Legion